

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 369/98

Date of decision: 31-08-2000

C O R A M

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

E. Karunakaran S/o late Ekkoran
retired Office Superintendent Grade-II
Southern Railway, Ernakulam
residing at H.No. 67, GCDA Colony,
Indiranagar,
Kaloor.

Applicant

By Advocate Mr. P. Ramakrishnan

Vs.

1. Union of India represented by the
General Manager,
Southern Railway,
Madras.
2. The Chief Personnel Officer,
Southern Railway,
Madras
3. The Senior Divisional Personnel Officer,
Southern Railway,
Thiruvananthapuram.

By advocate Mr. K.V. Sachidanandan

O R D E R

On 31.8.2000 after hearing the learned counsel for the parties in the above O.A. and after giving careful consideration of the pleadings and perusing the documents brought on record we pronounced, the following orders in the open court:

"For reasons to be separately recorded, the present O.A. is dismissed. No order as to costs."

Pursuant to the above, detailed reasons are recorded below:

2. Applicant while working as Chief Clerk at Ernakulam in Southern Railway was promoted as Office Superintendent in the scale of Rs. 2000-3200 w.e.f. 6.3.1991 by A-1 order. By A-3

order dated 18.4.96 he was transferred to Madurai. He filed O.A. No. 543/96 before this Tribunal. By order dated 7.6.96 this Tribunal held that the applicant should be retained at Ernakulam as Chief Clerk if he was willing. Consequently A-4 order dated 20.2.97 was issued by the 3rd respondent reverting applicant as Office Superintendent Grade-II and retained at Ernakulam. Applicant's case is that he was drawing a pay of Rs. 2300/- in the scale of Rs. 2000-3200 at the time of his reversion as Office Superintendent Grade II on 20.2.97. Upon his reversion to the post of Office Superintendent Grade II in the scale of Rs. 1600-2660 his pay was reduced to Rs. 2150/-. Quoting Rule 1313(a)(ii) of the Indian Railway Establishment Code (IREC for short) and proviso thereto applicant filed A-5 representation dated 16.5.97 seeking for protection of the pay drawn by him in the higher grade. When he retired from service on 20.11.97 his pension and other retirement benefits were granted to him reckoning the basic pay drawn by him in the lower grade. Aggrieved he filed this O.A. seeking the following reliefs:

(a) an order declaring that the applicant is entitled to have his pay protected at the stage of Rs. 2300 upon reversion to the scale of Rs. 1600-2660 and for all consequential benefits arising therefrom including revision of pension and retiral benefits.

(b) an order directing the respondents to refix the applicant's pay protecting it at the stage of Rs. 2300 upon reversion to the scale of Rs. 1600-2660 and grant him all consequential benefits including revised pension and other retiral benefits.

(c) such other order and directions as are deemed fit in the facts and circumstances of the case.


3. Respondents filed reply statement and resisted the claim of the applicant. They stated that as the applicant had expressed his willingness to work as Chief Clerk in compliance with the judgment in O.A. 543/96 he was reverted as Office Superintendent Grade-II which was previously called Chief Clerk in the scale of Rs. 1600-2660 (Rs. 5500-9000 revised) as per



A-4 order. As the applicant had requested for transfer to the post of Chief Clerk from which he was promoted as Office Superintendent Grade-I in the scale of Rs. 2000-3200 (6500-10500 revised scale) his pay was fixed at a stage in scale Rs. 1600-2660 which he would have drawn had he been not been promoted to grade-I in terms of the corrected provisions contained in paragraph 604 (a)(iii) of the Indian Railway Establishment Manual Vol.I 1989 edition (IREM for short). Respondents submitted that the applicant had retired on 30.11.97 and not on 20.11.97 as stated in the O.A. They further submitted that in A-5 also the applicant stated that he had chosen to stay back at Ernakulam in the lower post of Office Superintendent -II.

4. Learned counsel for the applicant took us through the provisions of Rule 1313(a)(ii) of the IREC and the proviso thereto and submitted that the posting of the applicant on reversion from Office Superintendent Grade-I to that of Office Superintendent Grade-II should be taken as appointment to a post not involving assumption of duties and responsibilities of greater importance than those attached to the earlier post and hence his initial pay should be fixed at an equal stage in the substantive pay and if there was no stage then the pay should be fixed in the next below stage with personal pay equal to the difference until it merges with the next increment. According to the learned counsel for respondents Rule 1313(a)(ii) of the IREC was not at all applicable in the case of the applicant. His pay on reversion as Office Superintendent Grade-II was to be fixed in accordance with para 604(a)(iii) of the IREM.

5. Even though the applicant claim sfor extending the benefit of Rule 1313(a)(ii) of IREC to him on his appointment as Office Superintendent Grade-II on reversion, nothing was



shown to us as to how the said Rule would be applicable to the applicant's case. We have perused Rule 1313(a)(2) along with 1313(a)(I). Rule 1313(a)(I) deal with the method of fixation of pay of a Railway servant when promoted or appointed subject to fulfilment of eligibility conditions in accordance with the relevant recruitment rules from one post to another including assumption of duties and responsibilities of greater importance. Rule 1313(a)(2) deals with the method of fixation of pay of a Railway Servant when such an appointment does not involve assumption of duties and responsibilities of greater importance. In this case the applicant was appointed as Office Superintendent Grade-II on reversion on his request as he did not want to move to Madurai. Hence in our view Rule 1313(a)(2) is not applicable for fixation of pay in the applicant's case.

6. In Para 604(a)(iii) of the IREM Vol.I, 1989 edition relied on by the respondents we note the second clause reads as under:

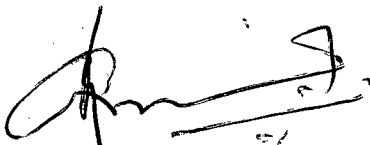
When a government servant seeks transfer to a post from which he was promoted, it will be treated as a case of reversion and his pay will be fixed at a ☐ stage what he would have drawn had he not been promoted."

There is no dispute in this case that the applicant was working as Chief Clerk (re-designated as Office Superintendent Grade-II) prior to his promotion as Office Superintendent Grade-I in 1991. When he was transferred to Madurai as Office Superintendent Grade-I he approached this Tribunal and pursuant to the order of this Tribunal on his request he was reverted as Office Superintendent Grade-II (erstwhile Chief Clerk) and retained at Ernakulam. In such a situation in our view there is no infirmity in the action of the respondents in fixing his pay under paragraph 604(a)(iii) of the IREM vol.I, 1989 edition



in fixing his pay as Office Superintendent Grade-II under the second clause of Paragraph 604 (a)(iii) of the IREM Vol.I, 1989 edition reproduced above.

7. In the light of the foregoing we did not find any merit in the O.A. and accordingly, we dismissed the same with no order as to costs on 31.8.2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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ASHOK AGARWAL
CHAIRMAN

List of annexures referred in this order

- A1 True copy of office order No. T.26/91/Clerk dated 4.4.91 issued by the 3rd respondent.
- A3 True copy of office order No. T.18/96/Clerk dated 18.4.96 issued by the 3rd respondent.
- A4 True copy of office order No.T.9/97/Clerk dated 20.2.97 issued by the 3rd respondent.
- A5 True copy of representation dated 16.5.97 from the applicant to the 3rd respondent.